IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Writ Petition No.5400 of 2005

Krishnat Nathu Sapkal & ors. Petitioners
Vs.
The State of Maharashtra & ors. Respondents

Mr.A.B.Vagyani for petitioners.

Mrs.M.P.Thakur, AGP for resp.nos.1 to 4.

Mr.Rajesh Kachare with Mr.Ravindra N. Kachare for resp.nos.5 to 26.

CORAM: B.H.MARLAPALLE & NARESH H.PATIL,JJ.

October 04, 2006.

P.C.

1. Heard Mr.Vagyani, the learned counsel for the petitioners who are the residents of village Savarghar, Tal. Patan, Dist. Satara and they are affected persons on account of construction of Taralim Medium Dam in asmuchas their lands came to be acquired for the said project. The petitioners are not members of the same family and, therefore, they are required to pay separate Court fees on the basis that they have individually filed this petition.

2. The petitioners have impugned the order dated 19th March 2005 passed by the SDO, Karad. The

petitioners claim that the respondent nos.5 to 26 could not have been allotted the land as per the impugned order without considering the petitioners' claim and it is further alleged that the petitioners are not getting any land for their resettlement and as per their choice. A similar representation was submitted by the petitioners on 9/5/2005 to the Divisional Commissioner at Pune and by his order dated 29/6/2005 the said representation has been rejected in asmuchas the stay granted to the order dated 19/3/2005 came to be vacated.

3. Mr.P.N.Hiramani, Residential Naib Tahsildar, Tal. Patan has filed affidavit-in-reply and respondent nos.5 to 26 have also placed their reply on record. As per the affidavit filed by the State as per the original resettlement plan out of the 109 persons found to be eligible for resettlement, 50 of them were to be resettled at Kathewadi gaothan in Patan taluka whereas remaining 59 were to be resettled in Dhavarwadi gaothan in Karad taluka. This resettlement plan was made on the basis of availability of land within a radius of 8 kms. from the two gaothans i.e. Kathewadi gaothan and Dhavarwadi gaothan. The resettlement is being done

strictly as per the provisions of Section 16 of the Maharashtra Project Affected Persons Rehabilitation Act, 1986 and there is nothing called representation of different groups. The petitioners' claim that there were two groups and by consent they decided the allotment of land / plots by drawing chits cannot stand the test of law and such a procedure could not be accepted. It is also stated that when the resettlement plan was drafted, none of the petitioners ever recorded their objection.

4. The learned counsel for the petitioners has also referred to the so called report submitted by the Commissioner and Deputy Commissioner (Entertainment Cess) on 3/10/2002. Even if we go by the said report, it is clear that for Kathewadi rehabilitation centre there were 112 project affected persons and 96 of them have already been allotted lands at village Kathewadi gaothan and Dhavarwadi gaothan. Out of the remaining 16, six persons refused to accept the rehabilitation proposal and remaining ten persons from Kathewadi, four have confirmed their acceptance and six were found to be ineligible.

5. It was contended that the land sought to be allotted is not fit for agriculture and, therefore, the State authorities could not have proceeded to allot the land to respondent nos.5 to 26 unless the petitioners were given the land / plots of their choice. It is well known that the resettlement of the project affected persons is generally by allotting the land available at the disposal of the State Government and normally this is the land which is acquired for resettlement. It is possible that some allotees may not be lucky enough to get fertile land to their share and instead rocky land may come to their share. However, this by itself will not be a reason to upset the resettlement plan. When a new project is sanctioned and constructed for the larger interest of the farming community it is possible that some marginal number of farmers are adversely affected but the action of the State cannot be faulted on this ground so long as larger social interests are considered for resettlement of the project affected persons under the Act. It is not the petitioners' case that the allotment was done illegally. Their claim that unless the lands of their choice are allotted to them the respondent nos.5 to 26 could not have been allotted the land by

the impugned order has no force in law.

6. Hence this petition fails at the threshold and the same is hereby rejected summarily.

(NARESH H. PATIL,J.) (B.H.MARLAPALLE